



THE ATTORNEY GENERAL
OF TEXAS

AUSTIN, TEXAS 78711

FORD C. MARTIN
ATTORNEY GENERAL

March 3, 1970

Hon. Paul Spillman
County Attorney
Collingsworth County
Wellington, Texas

Opinion No. M-588

Re: Authority of County Tax
Assessor-Collector to collect
taxes for rural high school
district, and related
questions.

Dear Mr. Spillman:

By recent letter you have requested our opinion on these questions:

1. May your county tax assessor-collector assess and collect ad valorem taxes for a rural high school district in your county;
2. May the county tax assessor-collector be appointed in his individual capacity to serve as the tax assessor for a rural high school district in your county;
3. Whether any fee received by the county tax assessor-collector for assessing and collecting taxes for the rural high school district would be a fee of his office payable into the county treasury.

Chapter 25 of the Texas Education Code covers the various aspects of operation of a rural high school district in Texas. Section 25.07 is pertinent to the questions involved in your request. We quote from it as follows:

"25.07. Assessment and Collection of Taxes

"(a) Except as provided in this chapter, the taxes for a rural high school district shall be assessed and collected by the county tax assessor-collector in the manner provided for the assessment and collection of taxes for a common school district.

"(b) The board of trustees of a rural high school district may appoint an assessor of taxes who shall assess the taxable property within the limits of the district and the assessment shall be equalized by a board of equalization composed of three members, legally qualified voters residing in the district, appointed by the board of trustees, in which event:

"(1) The tax assessor so appointed shall make a complete list of all assessments made by him and when the list is approved, shall submit it to the county tax collector not later than September 1 of each year, and the tax assessor shall receive compensation for his services as the trustees of the district may allow, not to exceed two percent of the taxes assessed by him;

"(2)...

"(3) The county tax assessor-collector shall collect the taxes and shall deposit the funds so collected in the county depository to the credit of the rural high school district, and he shall be compensated at the rate of one-half of one percent for his services for collecting the taxes."
(Emphasis added.)

It is our opinion that under the provisions of Section 25.07(a) your county tax assessor-collector is required to assess and collect the tax for a rural high school district in your county, unless the school district appoints another individual as tax assessor pursuant to Section 25.07(b). In either event the county tax assessor-collector must collect the tax. See Attorney General's Opinion O-4563 (1942).

It must be noted at this point, that Collingsworth County does not have a rural high school district which qualifies for the special law provisions of Subsections (c) or (d) of Section 25.07, and therefore this opinion does not deal with these provisions, which are not applicable to the facts at hand.

In regard to the fee received by the tax assessor-collector, this office has previously held that fees collected by a county tax assessor-collector from an independent school district must be accounted for and deposited with the county treasurer. Attorney General's Opinion O-194 (1939). The basis for this prior holding rested on the fact that the assessor-collector was acting in his official capacity and performing a job requisite to his office.

In the instant case, under the provisions of Section 25.07, quoted above, the county tax assessor-collector is also required to assess and collect, or to collect only, for the rural high school district, and consequently must account for these fees to the county.

As to whether the county tax assessor-collector can be appointed to assess the tax as an individual under the provisions of Section 25.07(b), it is our opinion that such an appointment would violate Section 40 of Article XVI of the Constitution of Texas. Attorney General's Opinion WW-1442 (1962).

A general rule of statutory construction is that a statute should be construed to ascribe to the Legislature an intent to enact legislation consistent with the Constitution. 53 Tex. Jur.2d 225-227, Statutes, Section 158. Therefore, it is our opinion that the Legislature did not intend that Section 25.07 authorize a county tax assessor-collector to serve in his own individual private capacity as a tax assessor for a rural high school district.

S U M M A R Y

Under provisions of Section 25.07 of the Texas Education Code, the county tax assessor-collector is required to assess and collect ad valorem taxes for a rural high school district

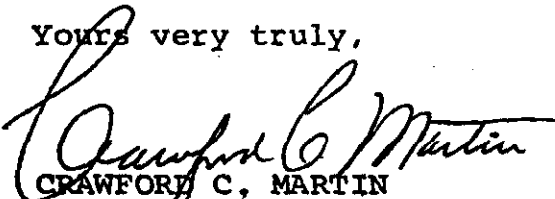
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in Collingsworth County, unless the district chooses to appoint a separate tax assessor, and in that event, the county tax assessor-collector is required to collect the tax.

A county tax assessor-collector cannot be appointed as an individual, apart from his official position, to assess the property for tax purposes for a rural high school district, because such appointment would violate Section 40 of Article XVI, Texas Constitution.

Fees received by the county tax assessor-collector for assessing and collecting, ad valorem taxes, or for only collecting such taxes, for a rural high school district, must be turned in to the county treasurer as a fee of his office.

Yours very truly,


CRAWFORD C. MARTIN
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Assistant Attorney General

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